

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Case No. 08-66556

ABRAHAM NICOLA NUNU, *pro se*,

Chapter 11

Debtors.

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Judge Steven W. Rhodes

**ORDER DENYING, WITHOUT PREJUDICE, DEBTOR'S "EMERGENCY EX PARTE  
MOTION FOR TEMPORARY RESTRAINING ORDER, [ETC.]," FILED NOVEMBER  
4, 2008 (DOCKET # 10)**

This case is before the Court on an emergency motion filed by the purported Debtor in this Chapter 11 bankruptcy case, Abraham Nicola Nunu. The emergency motion was filed on November 4, 2008 at 2:19 p.m., and is entitled "Emergency Ex Parte Motion for Temporary Restraining Order, for Order to Show Cause, and for Order to Cease and Desist Directed to Judge Robert Ziolkowski, Doctor's Associates, Inc., Said Namari, Hospitality Food and Management Corp., And Their Attorneys" (Docket # 10, the "Emergency Motion").

This case is assigned to Chief Judge Steven W. Rhodes. The Emergency Motion was referred to the undersigned bankruptcy judge, by blind draw, however, due to the unavailability of Judge Rhodes this afternoon. *See* L.B.R. 1073-1(a)(5)(E.D. Mich.).

The purported Debtor, Abraham Nicola Nunu, filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on October 30, 2008 at 8:44 a.m., initiating this case (Docket # 1). Mr. Nunu is not represented by an attorney in this case. Mr. Nunu did not sign his bankruptcy petition. Rather, at the place for the "Debtor's Signature" on page 3 of the petition, there is only the following, typewritten language:

/s/ Abraham Nicola Nunu

Signature of Debtor

Abraham Nicola Nunu

(Docket # 1 p. 3).

This is not a proper signature; it is no signature at all. The above signature format is proper only for a “Filer” or “User” who files a paper electronically in this Court, under the Court’s Administrative Procedures for Electronic Case Filing, ECF Procedure 11(d)(1).<sup>1</sup> But Mr. Nunu filed the bankruptcy petition in paper form, not electronically. Furthermore, he is neither a “Filer” nor a “User” as those terms are defined in the Court’s Administrative Procedures for Electronic Case Filing, ECF Procedure 2(f) and 2(p). (He is not an individual with an approved login and password, registered to use the Court’s ECF system for filing papers electronically.)

For these reasons, the petition filed by Mr. Nunu on October 30, 2008 is deemed unsigned. *Cf. Giebelhaus v. Spindthrift Yachts*, 938 F.2d 962, 966 (9th Cir. 1991)(“a typewritten name is not a signature for the purpose of Rule 11”). Fed.R.Bankr.P. 9011(a) requires that every petition be signed by the debtor. That rule further provides that “[a]n unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.”

If this case were assigned to undersigned bankruptcy judge, I would probably dismiss the case today, *sua sponte*, without further notice or hearing. I do not have that authority, however, because the case is not assigned to me, but rather is before me only for the limited purpose of dealing with the Debtor’s Emergency Motion. It will be up to the assigned judge to decide what further action to take, if any, based on the Debtor’s failure to file a signed bankruptcy petition,

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<sup>1</sup> A copy of these ECF procedures are available on the Court’s website, at [www.mieb.uscourts.gov](http://www.mieb.uscourts.gov).

and the extent to which the Debtor might be able to cure this problem by filing an amended, properly signed petition.

In the meantime, however, Debtor's Emergency Motion must be denied. The motion is premised entirely upon the automatic stay having arisen under 11 U.S.C. § 362(a) when the unsigned bankruptcy petition was filed on October 30, 2008. Section 362(a) states that, with certain exceptions, "a petition filed under §§ 301, 302, or 303 of this title, . . . operates as a stay, applicable to all entities, of" the actions described in subparagraphs (1) through (8) of § 362(a). An unsigned petition, however, is not a petition at all for purposes of § 362(a), so no automatic stay has yet arisen in this case. As a result, the Court is presently unable to grant the Debtor any of the relief requested in his Emergency Motion.

For these reasons, the Court must deny the Debtor's Emergency Motion. The denial of this motion today, however, is without prejudice to the Debtor's right to refile the motion and seek the same or similar relief based upon the automatic stay, if and after the Debtor has filed a properly-signed bankruptcy petition. Accordingly,

IT IS ORDERED that the Debtor's Emergency Motion is denied, without prejudice.

**Signed on November 4, 2008**

**/s/ Thomas J. Tucker**  
**Thomas J. Tucker**  
**United States Bankruptcy Judge**  
***(acting in the absence of Chief Judge Rhodes)***